



March 12, 2012

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109; Universal Service Reform – Mobility Fund, WT Docket No. 10-208

Dear Ms. Dortch:

On Thursday, March 9, 2012, the undersigned spoke via telephone on behalf of the National Telecommunications Cooperative Association with Christine Kurth, policy director and wireline counsel to Commissioner Robert McDowell, to discuss matters related to the above-referenced proceedings.

During this conversation, I expressed concern with the adoption of any further caps, cuts, and constraints to Universal Service Fund (“USF”) support and intercarrier compensation (“ICC”) in the wake of the Order released on November 18, 2011 by the Federal Communications Commission (the “Commission”) in the above-referenced proceedings. I noted that the “dust has not even started to settle” on the many support and revenue reductions adopted by the Commission in that Order. I also highlighted that numerous questions and substantial confusion continue to surround implementation of the Order, and that end users already appear to face the prospect of significant rate increases as a result of the actions just taken.

In light of these concerns, the Commission, rural consumers, service providers, and lenders and investors would be far better served by first answering the many pending questions and taking the time to evaluate the impacts of the many changes just made, rather than racing forward with further steps such as: (i) represcribing the authorized interstate rate-of-return; (ii) extending the still-being-developed regression analysis-based caps to Interstate Common Line Support; (iii) reducing USF support in areas served by a purported “unsubsidized” competitor; or (iv) reducing any other ICC rate elements. Indeed, many lenders are still processing the changes just adopted

and attempting to evaluate the impact of such changes on their loan portfolios – even though it is not entirely possible to do so because some of the most significant changes just adopted remain subject to ongoing development by the Wireline Competition Bureau. Racing forward to consider yet more changes when those reforms adopted last fall have yet to be implemented or even fully understood undermines the fundamental tenets of universal service, runs contrary to the objectives of promoting broadband deployment, and only perpetuates regulatory uncertainty.

Moreover, I observed that the Order adopted last fall contains no specific enhancements for broadband-focused funding for rate-of-return-regulated rural local exchange carriers (“RLECs”). Instead, the Order consists entirely (from a USF perspective) of cuts, caps, and constraints to existing high-cost mechanisms. With such an approach, it will be difficult – and in many cases, impossible – for RLECs to deploy (or even sustain) broadband at 4/1 Mbps speeds or higher, and as noted above, some RLECs face the likely prospect of needing to file for waivers once the rules are finalized just to remain in business and provide basic levels of broadband to rural consumers and businesses.

I therefore emphasized the importance of implementing a true “Connect America Fund” (or “CAF”) for RLECs. Detailed rules to implement such a plan have been on the record now for nearly six months; this “RLEC Plan” would enable reasonable broadband deployment in rural areas while helping to ensure that USF growth would remain at historical, very modest levels (approximately 3% annually). Moreover, the RLEC Plan would solve two of the most vexing issues with respect to rural broadband deployment: (1) the need to ensure that consumers can migrate to standalone broadband services without being compelled to take legacy voice service as well; and (2) the need for middle mile support that will enable RLECs to provide reasonably comparable services at reasonably comparable rates. I urged the Commission to adopt the RLEC Plan as the CAF for rate-of-return carriers or, at a minimum, to ensure that provisions are in place to provide incremental support for middle mile networks and standalone broadband, particularly since such measures appear likely to be a part of any CAF mechanism in areas served by price cap carriers.

Finally, I expressed concern about the waiver process outlined in the Order. As an initial matter, I observed that the cumbersome nature of the process spelled out in the Order, together with the uncertainty surrounding when the rules (and resulting reductions in support) would be final, is deterring many RLECs from filing for waivers at this time notwithstanding substantial concerns about the apparent cuts arising out of the Order. Moreover, I noted that the list of information set forth in the Order to justify a waiver appeared to go well beyond what was needed to evaluate the impacts of USF support reductions on an individual carrier. I urged the Commission to modify the waiver process so that it would become a more clear-cut “safety net” mechanism, consistent with the previously expressed position of the Administration. See *Ex Parte* Letter from Jonathan Adelstein, Administrator, RUS, to Chairman Genachowski (dated Oct. 20, 2011).

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Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2016 or mromano@ntca.org.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

Senior Vice President - Policy

cc: Christine Kurth